

REMARKS

In the Office Action, the Examiner objected to claims 6 and 12 as being dependent upon a rejected base claim, but indicated that claims 6 and 12 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Examiner rejected claims 1-5, 7-11, and 13 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,513,124 to Furuichi et al. ("Furuichi").¹

By this Amendment, Applicants amend claims 1 and 9 and add claims 14-16 to address other aspects of the present invention. Claims 1-16 are currently pending. Applicants thank the Examiner for pointing out allowable subject matter in claims 6 and 12. Applicants respectfully traverse the Examiner's rejection under § 102.

Regarding claim rejection under 35 U.S.C. § 102

Applicants respectfully traverse the Examiner's rejection of claims 1-5, 7-11, and 13 under 35 U.S.C. § 102(e) as being anticipated by Furuichi. In order to anticipate Applicants' claimed invention under 35 U.S.C. § 102, each and every element of the claim in issue must be found, either expressly described or under principles of inherency, in a single prior art reference. Further, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." See M.P.E.P. § 2131, quoting Richardson v. Suzuki Motor Co., 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Independent claim 1, as amended, recites a combination including, for example, “acquiring an executable instruction count per unit time of the processor, the count being a count of instructions related to software programs, including an application and an operating system (OS), executed by the processor.” Furuichi fails to disclose at least the above listed claim elements as recited by amended claim 1.

The Examiner alleges that Furuichi discloses “determining whether a ratio of the executable instruction count to the clock count exceeds a predetermined value (column 3, lines 7-14) and controlling the clock frequency of the processor in accordance with a result of the determination (column 3, lines 7-14).” Applicants respectfully disagree.

According to column 3, lines 7-14 of Furuichi, the executable instruction count is determined by “counting the number of executed instructions (I_u) in a user mode during a first predetermined period.” Furuichi, column 3, lines 5-7, emphasis added. However, the “instruction in the user mode is an instruction executed in a state where the privilege level of a CPU is the lowest.” Furuichi, column 4, lines 41-43, emphasis added. Such user mode is different from a “system mode,” where an operating system (OS) may operate. Therefore, Furuichi’s teaching of counting user mode instructions does not constitute “acquiring an executable instruction count per unit time of the processor, the count being a count of instructions related to software programs, including an application and an operating system (OS), executed by the processor,” as recited in amended claim 1.

Therefore, Furuichi fails to disclose each and every element of amended claim 1. Furuichi thus cannot anticipate amended claim 1. Accordingly, Applicants respectfully request withdrawal of the Section 102 rejection of claim 1. Because claims 2-5, 7, and

8 depend from claim 1, claims 2-5, 7, and 8 are also allowable for at least the same reasons stated above.

Further, amended independent claim 9, while of different scope, recites similar language to that of claim 1. Claim 9 is therefore also allowable for at least the same reasons stated above with respect to claim 1. Applicants respectfully request withdrawal of the Section 102 rejection of claim 9 and its dependent claims 10, 11, and 13.

Regarding claim objections

Applicants respectfully traverse the Examiner's objection to claims 6 and 12. Since claims 6 and 12 depend from allowable claims 1 and 9, respectively, Applicants respectfully request withdrawal of the objection to claims 6 and 12.

Regarding newly added claims

Applicants have added claims 14-16 to address other aspects of the present invention. Support for claims 14-16 may be found at, for example, Fig. 3 and pages 9 and 10 of the specification. At least because claims 14-16 depend from claim 1, claims 14-16 are allowable over Furuichi. In addition, Applicants respectfully submit that Furuichi fails to disclose "determining an operational mode from a plurality of operational modes, associated with a plurality of threshold values," as recited in claim 14; "wherein the plurality of operational modes include at least a power saving mode, a standard mode, and a high-speed mode," as recited in claim 15; or "searching a table containing information about relationships between the operational modes and threshold values," as recited in claim 16.

Conclusion


In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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